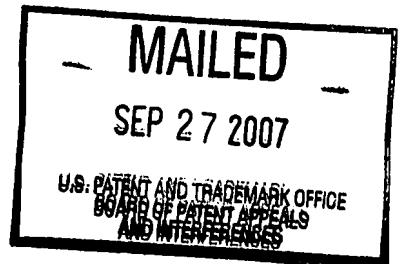


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte: CASSANDRA J. MOLLETT,  
MOLLIE M. HELLIGE and DANIEL R. AHLES

Appeal No. 2007-1423  
Application No. 09/474,671



ORDER REMANDING TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on September 6, 2007. A review of the application has revealed that the application is not ready for consideration of the appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

**ORDER REMANDING**

On January 12, 2006, the Board of Patent Appeals mailed an Order Remanding this application to the examiner. It was noted that the Examiner's Answer mailed June 3, 2004, included a rejection under 35 USC 101. The application was returned to the Examiner for reconsideration due to the published version of the "Interim Guidelines for Examination of Patent Application For Patent Subject Matter Eligibility", signed on October 26, 2005, and to determine if any of the claims could also be affected by Ex parte Lundren.

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### **EXAMINER'S ANSWER**

On May 5, 2006, the Examiner vacated the Examiner's Answer mailed June 3, 2006, and mailed a revised Examiner's Answer was mailed in response to a Board of Patent Appeals Remand. A review of the Examiner's Answer mailed May 5, 2006, reveals that it is not in compliance with the Manual of Patent Examining Procedure (MPEP). The section entitled Grounds of Rejection identifies that Claims 1-6, 8 and 9 are rejected under 35 U.S.C. 103(a). Further, the Examiner indicates that the rejection was fully set forth in the Final Rejection, identified as paper no. 15, mailed May 27, 2003. Under the rules that went into affect on September 13, 2004, Incorporation of a rejection by reference is improper. An Examiner's Answer should not refer, either directly or indirectly, to any prior Office action without fully restating the point relied on in the answer.

According to the MPEP:

- (d) For each rejection under 35 U.S.C. 103, the examiner's answer must:
  - (i) state the ground of rejection and point out where each of the specific limitations recited in the rejected claims is found in the prior art relied on in the rejection; and ...
- (f) For each rejection, other than those referred to in paragraphs (a) to (e) of this section, the examiner's answer must specifically explain the basis for the particular rejection.

Correction of the record is required.

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**CONCLUSION**

Accordingly, it is

**ORDERED** that the application is returned to the examiner for:

- 1) vacate the Examiner's Answer dated May 5, 2006;
- 2) issue and mail a revised Examiner's Answer setting forth all pertinent rejections; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

  
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